

REMARKS

After entry of this Amendment D and Response After RCE, claims 1-21, 23-47, 49-63, 65, 67, and 69-70 will be pending. Claims 1, 30, 57, and 70 have been amended herein. Support for the rheology enhancers listed in claims 1, 30, 57, and 70 can be found in ¶37 of the specification, which states that suitable rheology enhancers for use in the present invention include ethylene/propylene/styrene copolymers alone or in combination with mineral oil or petrolatum, butylene/ethylene/styrene copolymers alone or in combination with mineral oil or petrolatum, and ethylene/vinyl acetate copolymers. Support may also be found in the tables of Example 1, which give the composition of various lubricating formulations, which may include the rheology enhancers ethylene/vinyl acetate copolymer with polyethylene (Tables 1-3 and 5-6), ethylene/vinyl acetate copolymer (Tables 2-3), and mineral oil and styrene (i.e., Versagel M-750, Table 4). Additional support may be found in claims 22 and 48 as originally filed.

Applicants thank Examiner Kiliman for the phone interviews on May 10, 2006 and May 16, 2006, in which the final Office action dated March 1, 2006 was discussed. In particular, Examiner Kiliman indicated that he would enter an amendment after final rejection, reducing the number of rheology enhancers listed in the independent claims. It is applicants' understanding that Examiner Kiliman intends to allow the claims, as amended herein.

Rejections under 35 U.S.C. §102(e)

Reconsideration is requested of the rejection of claims 1-21, 23-47, 49-63, 65, 67, and 69-70 under 35 U.S.C. §102(e)

as being anticipated by Gatto, et al. (U.S. Patent No. 6,570,054).

Gatto, et al. disclose an absorbent article comprising a skin care composition. The skin care composition may comprise from about 0.001% to about 70% by weight of a skin care ingredient, from about 0.1% to about 25% by weight of a rheology agent, from 0 to 99.9% by weight of an emollient, and from about 5 to about 95% by weight of an immobilizing agent. The skin care composition has an elastic modulus of at least about 5 dynes/cm² measured at a strain of 0.2%, an oscillation frequency of 10 rad/sec, when measured at a temperature of 77°C, and an apparent viscosity of from about 1 to about 100,000 cps.

Initially, applicants note that the skin care composition disclosed in Gatto, et al. is not used on a tissue product. In contrast to the requirements of the present invention, Gatto, et al. is directed to absorbent articles comprising a skin care composition. The absorbent articles of Gatto, et al. include feminine hygiene garments (e.g., sanitary napkins, panty-liners, and tampons), diapers, incontinence briefs, diaper holders, and training pants.¹ In contrast, claim 1 is directed to a tissue product comprising a fibrous substrate material and a lubricating formulation. Such tissue products may include facial tissue, bath tissue, towels, hanks, napkins, and similar products.²

Furthermore, Gatto, et al. do not to disclose any of the specific rheology enhancers listed in amended claim 1. For instance, col. 15, lines 58-65 of Gatto, et al. lists various polymeric rheology enhancers that may be used in the

¹ U.S. Patent No. 6,570,054 at col. 25, ln. 24-28.

² Specification, p. 7, ¶18.

compositions of Gatto, et al. Specifically, this passage of Gatto, et al. states:

Also useful herein are polymeric rheological agents. Nonlimiting examples are polymethacrylate polymers, polymethacrylate and styrene copolymers, which can optionally be crosslinked a common crosslinking agent, polyethylene, polyethylene and acrylic acid or vinyl acetate copolymers, polyisobutylene, poly- α -olefins, bi or tri-component copolymers of styrene and hydrogenated ethylene, propylene, butylene. Nylon 66 and hydrophobic cellulose derivatives.

Applicants note that Gatto, et al. do not disclose ethylene/propylene/styrene copolymers and butylene/ethylene/styrene copolymers. Specifically, the "bi or tri-component copolymers of styrene and hydrogenated ethylene, propylene, butylene" rheology enhancers listed in the above quoted passage of Gatto, et al. require the copolymer to contain hydrogenated ethylene. In contrast, the ethylene/propylene/styrene copolymer and butylene/ethylene/styrene copolymer rheology enhancers listed in claim 1 of the present invention are copolymers comprising ethylene, not hydrogenated ethylene.

Gatto, et al. furthermore fail to disclose ethylene/vinyl acetate copolymers. Although the above quoted passage of Gatto, et al. does disclose "polyethylene and acrylic acid or vinyl acetate copolymers" as rheology enhancers, these copolymers include copolymers of polyethylene and acrylic acid and copolymers of polyethylene and vinyl acetate, not an ethylene/vinyl acetate copolymer.

Additionally, Gatto, et al. fail to disclose the combination of mineral oil and styrene as a rheology enhancer. Although Gatto, et al. do state that their compositions may comprise mineral oil,³ there is no disclosure in Gatto, et al.

³ See Gatto, et al., col. 16, line 54.

that the compositions described therein may also comprise styrene. In fact, the only mention of styrene in Gatto, et al. is in the above cited passage, which merely indicates that styrene may be present as part of various copolymers.

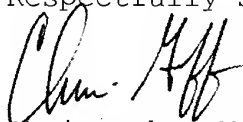
As stated in M.P.E.P. §2131, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Since Gatto, et al. fail to disclose a tissue product comprising a fibrous substrate material and a lubricating formulation, and do not disclose any of the specific rheology enhancers listed in amended claim 1, Gatto, et al. fail to disclose each and every limitation of claim 1. As such, claim 1 is novel over Gatto, et al.

Claims 2-21, 23-47, 49-63, 65, 67, and 69-70 are likewise patentable over Gatto, et al. for the same reasons as set forth above for claim 1.

CONCLUSION

In light of the foregoing, applicants request reconsideration of the rejection of claims 1-21, 23-47, 49-63, 65, 67, and 69-70 and allowance of all pending claims. The Commissioner is hereby authorized to charge any fee deficiency in connection with this response to Deposit Account Number 19-1345.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Chris. Goff", is written over the typed name.

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